

North Dakota CENTURY CODE



REPLACEMENT

VOLUME 7A

2011 Pocket Supplement

Containing
New Statutes and Amendments to Statutes of a General
and Permanent Nature Enacted by the Legislative
Assembly Since Publication of Replacement
Volume 7A of the Century Code

**PUBLISHED BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY
UNDER THE SUPERVISION AND WITH THE ASSISTANCE OF THE
LEGISLATIVE COUNCIL AND THE SECRETARY OF STATE**



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PUBLISHER'S NOTE

Under Article IV, § 13, of the Constitution of North Dakota, the acts enacted at the 2011 regular session of the Legislative Assembly during its eighty natural meeting days are effective on August first after filing with the secretary of state, or if filed on or after August first and before January first of the following year, ninety days after filing, except when an act has an emergency clause, specifies some other effective date, is an appropriation measure for support and maintenance of state departments or is a tax measure that changes tax rates. Effective dates for all sections amended or enacted at the 2011 regular session or special session are stated in notes following those affected sections (or, for enacted chapters, following the first section in each chapter).

The adjournment date of the Sixty-second Legislative Assembly, State of North Dakota, was April 28, 2011.

The annotations in this, the 2011 Cumulative Supplement, are derived from decisions of the North Dakota Supreme Court and decisions of the appropriate federal courts posted on LEXIS as of May 18, 2011. These cases will appear in the following reporters:

North Western Reporter, 2nd Series
Federal Supplement, 2nd Series
Federal Reporter, 3rd Series
Supreme Court Reporter
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following:

North Dakota Law Review, through Volume 85, p. 673,
American Law Reports, 6th Series, through Volume 55, p. 635, and
American Law Reports, Federal 2nd Series, through Volume 13.

August 2011

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or on behalf of any government contributing to the support of the commission.

Article VIII — Entry Into Force and Withdrawal

1. The compact enters into force when enacted into law by any four or more states. Thereafter, this compact becomes effective as to any other state upon its enactment thereof.
2. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal takes effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal affects any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX — Effect on Other Laws

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

Article X — Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Source: S.L. 2005, ch. 321, § 1.

Effective Date.

This chapter became effective August 1, 2005.

38-20-02. Filing bylaws and amendments. In accordance with subsection 9 of article V of the compact, the interstate mining compact commission shall file copies of its bylaws and any amendments thereto with the governor and public service commission.

Source: S.L. 2005, ch. 321, § 1.

CHAPTER 38-21

EXPLORATION FUND

Section

38-21-01. Geophysical, geothermal, subsurface minerals, and coal exploration fund.

Section

38-21-02. Fund uses.

38-21-03. Continuing appropriation — Cap.

38-21-01. Geophysical, geothermal, subsurface minerals, and coal exploration fund. There is created a geophysical, geothermal, subsurface minerals, and coal exploration fund. The following must be deposited into the fund:

1. Fees collected under sections 38-08.1-04, 38-12-03, 38-12.1-05, and 38-19-04.
2. Money received from the forfeiture of bonds or other security required by section 38-08.1-03.1, 38-12-02, 38-12.1-04, or 38-19-03.
3. Money received by the industrial commission from any federal or state agency, or any other source, to satisfy the purposes for which the fund is established.
4. Money received for penalties imposed under section 38-08.1-07, 38-12-05, 38-12.1-08, or 38-19-07.
5. Money recovered from any person to recoup costs and expenses incurred by the industrial commission to satisfy any duty imposed by chapter 38-08.1, 38-12, 38-12.1, or 38-19.

Source: S.L. 2007, ch. 314, § 4.

2007, pursuant to an emergency clause in section 8 of chapter 314, S.L. 2007.

Effective Date.

This chapter became effective April 13,

38-21-02. Fund uses. Money in the fund may be used to pay costs and expenses incurred by the industrial commission to satisfy unfulfilled obligations imposed on persons regulated under chapters 38-08.1, 38-12, 38-12.1, and 38-19. To cure such obligations, the commission may enter contracts consistent with the requirements of section 38-08-04.4.

Source: S.L. 2007, ch. 314, § 4.

38-21-03. Continuing appropriation — Cap. All money collected under section 38-21-01 must be deposited in the fund established by that section. The fund must be maintained as a special fund and all money transferred into the fund is appropriated and must be used and disbursed solely for the purposes described in section 38-21-02. If, however, the fund reaches five hundred thousand dollars, any additional money collected under section 38-21-01 must be deposited in the general fund, provided there are no outstanding obligations to be paid by the fund.

Source: S.L. 2007, ch. 314, § 4.

CHAPTER 38-22

CARBON DIOXIDE UNDERGROUND STORAGE

Section

38-22-01. Policy.

38-22-02. Definitions.

38-22-03. Commission authority.

38-22-04. Permit required — Permit transfer.

38-22-05. Permit applications, fees, costs, and priorities — Carbon dioxide.

Section

38-22-06. Permit hearing — Hearing notice.

38-22-07. Permit consultation.

38-22-08. Permit requirements.

38-22-09. Permit provisions.

38-22-10. Amalgamating property interests.

38-22-11. Certificate.

38-22-12. Permitting.

| Section | Section |
|--|---|
| 38-22-14. Fees — Carbon dioxide storage facility administrative fund — Continuing appropriation. | 38-22-18. Penalties. |
| 38-22-15. Fees — Carbon dioxide storage facility trust fund — Continuing appropriation. | 38-22-19. Enhanced recovery projects. |
| 38-22-16. Title to carbon dioxide. | 38-22-20. Cooperative agreements and contracts. |
| 38-22-17. Certificate of project completion — Release — Transfer of title and custody. | 38-22-21. Trusts, monopolies, restraint of trade. |
| | 38-22-22. Participation of public interests. |
| | 38-22-23. Determining storage amounts — Carbon credits — Fee. |

38-22-01. Policy. It is in the public interest to promote the geologic storage of carbon dioxide. Doing so will benefit the state and the global environment by reducing greenhouse gas emissions. Doing so will help ensure the viability of the state's coal and power industries, to the economic benefit of North Dakota and its citizens. Further, geologic storage of carbon dioxide, a potentially valuable commodity, may allow for its ready availability if needed for commercial, industrial, or other uses, including enhanced recovery of oil, gas, and other minerals. Geologic storage, however, to be practical and effective requires cooperative use of surface and subsurface property interests and the collaboration of property owners. Obtaining consent from all owners may not be feasible, requiring procedures that promote, in a manner fair to all interests, cooperative management, thereby ensuring the maximum use of natural resources.

Source: S.L. 2009, ch. 318, § 1.

Effective Date.

This chapter became effective July 1, 2009.

38-22-02. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Carbon dioxide" means carbon dioxide produced by anthropogenic sources which is of such purity and quality that it will not compromise the safety of geologic storage and will not compromise those properties of a storage reservoir which allow the reservoir to effectively enclose and contain a stored gas.
2. "Commission" means the industrial commission.
3. "Geologic storage" means the permanent or short-term underground storage of carbon dioxide in a storage reservoir.
4. "Permit" means a permit issued by the commission allowing a person to operate a storage facility.
5. "Pore space" means a cavity or void, whether natural or artificially created, in a subsurface sedimentary stratum.
6. "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including oil and gas reservoirs, saline formations, and coal seams suitable for or capable of being made suitable for injecting and storing carbon dioxide.
7. "Storage facility" means the reservoir, underground equipment, and surface facilities and equipment used or proposed to be used in a geologic storage operation. It does not include pipelines used to transport carbon dioxide to the storage facility.
8. "Storage operator" means a person holding or applying for a permit.
9. "Storage reservoir" means a reservoir proposed, authorized, or used